

REMARKS**Paragraphs 1 and 2 of the Office Action**

Claims 1,3,4 and 8 are rejected under 35 USC §102(b) as being anticipated by
5 Bishop. Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bishop.
Claims 5-7, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over
Bishop in view of Kisner.

Claim 1 includes a notch in the pole such that a lip is defined. The lip forms a
ledge onto which the canister may sit. This ensures that the can will be very well
10 supported on the pole and will not solely rely on the attaching member to perform this
function.

It is respectfully submitted that the Examiner has failed to show the notch and lip
as defined by the applicant. The Examiner finds "a notch (3) extending into the top end
such that a lip is defined, the lip (lip is identified in fig 2, the surface extending between
15 the notch and the hook) being spaced from the top end...." Element 3 is not a notch, and
it certainly does not extend into the pole so that a lip is defined; element 3 is a can holder.
"Pivotaly mounted on the upper end of the support is a can holder comprising *two*
sections 3 which straddle the support and are connect thereto by a pivot pin 4." Bishop,
column 1, lines 53-56, emphasis added. How can two sections attached to a support be
20 analogous, in any imaginable manner, to a notch? First, a notch is an absence of an
object, and therefore cannot be attached to anything. Second, it is this absence that forms
the lip in question. The lip defines a ledge onto which the bottom of a canister may sit.

The two sections 3 of Bishop form a pivoting arm, which includes securing means
6-8 for holding the canister to the pivoting arm. Sections 3 and securing means 6-8 are
25 not the same as the lip of applicant's device, but are more closely related to the attaching
member of applicant's device. If the fitting of the sections 3 is not tight, the canister of
Bishop will slide out between them and fall off of the support. Applicant, however, uses
a lip so that if the attaching member is not tight, the canister will still remain supported
on the pole since it will not be able to slip downwardly past the lip. The Examiner goes
30 out of their way to use the same language as quoted above to find the attaching member.
Again, how can the attaching member and the lip be the same as defined by the Examiner

when applicant clearly shows these as two distinct limitations? There is simply no support in the specification or figures to warrant such a finding by the Examiner.

Applicant's use of a lip may be simple, but that does not mean that it is not a patentable limitation.

- 5 Progress in the crowded arts, usually made in small increments, is as important as it is in arts at the pioneer stage.

- 10 In re Meng and Driessen, 181 USPQ 94 (CCPA 1974). Applicant's limitation of a notch is very effective for its intended purpose and the Examiner has found no analogous structure in the prior art.

- 15 The Examiner only increases the previous mischaracterizations to the level of fanciful by using Bishop for a 103 rejection with the finding that "Bishop does not disclose a range of distance between the lip ... and the top end." Of course Bishop does not disclose a range, because Bishop doesn't disclose a lip. Even if Bishop did disclose a lip as indicated by the Examiner, the distance is a patentable limitation because it is critical to the functionality of applicant's device. Only through deviation from the common meanings of words and from the actual teachings of Bishop is the Examiner able to make such findings. These findings are nearly impossible to argue against as they are illogical in the best sense and completely disregard Bishop in the worst.

- 20 As for Kisner, Kisner does not show straps attached directly to the support arm and also does not show an attaching member that would allow the canister to be placed on a lip on a support arm since it extends vertically, not laterally, away from the support arm.

- 25 For the reasons stated above, it is believed that claim 1, in its original form, and all claims depending from claim 1 are in condition for allowance.

The applicant respectfully requests withdrawal of the rejection.

CONCLUSION

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In light of the foregoing amendments and remarks, early consideration and allowance of this application are most courtcously solicited.

Respectfully submitted,

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